such evidences of debt within the state gives it jurisdiction for the purposes of taxation. *Haywood* v. *Board of Review,* 189 Ill. 234; *People* v. *Smith,* 88 N. Y. 576; JUDSON, TAXATION, § 396. The United States Supreme Court has used language which would seem to support this view. *New Orleans* v. *Stempel,* 175 U. S. 309; *State Board of Assessors* v. *Comptoir National,* 191 U. S. 388. In all such cases, however, a business of loaning money to persons within the state was conducted by the agent. Wherever such a business situs is established, the credits are there subject to taxation regardless of the location of the evidences of the debts. *Bristol* v. *Washington County,* 177 U. S. 133; *Metropolitan Life Insurance Co.* v. *New Orleans* (see preceding note). The court in the principal case says that such a business situs was not established in Indiana, and the business of making the loan in question was not conducted under the laws of that state; and that promissory notes, evidences of simple contract debts, are not property for the purposes of taxation. Therefore, the assessment was made on property that was never within the jurisdiction of Indiana. For comment on the decision of this case by the Supreme Court of Indiana see III MICHIGAN LAW REVIEW, p. 244.

WILLS—EQUITY—JURISDICTION.—Testator devised all of his lands to his six living children, providing that "if one sells, sell it to one of six, and if one dies with esue, its part shall go to the other children." A bill in equity was brought by certain of the devisees under this clause to have the court construe the same, and adjudge that the words "with esue" therein be held to mean "without issue," and determine whether certain devisees had a legal right to sell to persons other than devisees under such clause. *Held,* that a court of equity was without jurisdiction of the case made. *Hart et al.* v. *Darter et al.* (1907), — Va. —, 58 S. E. Rep. 590.

The matter of jurisdiction was the only question discussed in the opinion. The court determined that the clause under consideration disposed of purely legal interests and made no attempt to create any trust relation in respect to the land devised. There being no trust relation involved and no other ground of equity jurisdiction shown, the opinion rests upon the conclusion that the bill was properly dismissed. The rule adopted is that stated in *Chipman* v. *Montgomery,* 63 N. Y. 221, 230, "To put a court of equity in motion, there must be an actual litigation in respect to matters which are the proper subjects of the jurisdiction of that court, as distinguished from a court of law. * * * It is by reason of the jurisdiction of courts of chancery over trusts that courts having equitable powers as an incident to that jurisdiction take cognizance of and pass upon the interpretation of wills. They do not take jurisdiction of actions brought solely for the construction of instruments of that character, nor when purely legal rights are in controversy." 3 POMEROY EQ. JUR., § 1156, and cases cited. UNDERHILL ON WILLS, p. 608, and cases cited. The weight of authority is doubtless with the rule above stated, that the jurisdiction over wills is incidental to that over trusts. Wills of personalty stand on a slightly different footing. In such cases it is held that the jurisdiction extends to a construction of the instrument, at the suit of an executor or legatee, although the instrument creates no express trust,

on account of the implied trust relation existing between executor and legatee. 3 POM. EQ. JUR., § 1156, and cases cited. The courts are not in absolute accord, however, as to the ground of the jurisdiction of a court of equity to construe a will. Some cases follow a rule less restricted than that quoted from *Chipman* v. *Montgomery,* supra, and hold that such jurisdiction is not necessarily connected with the general jurisdiction over trusts, but exists and is exercised whenever the terms of a will are really difficult, or doubtful, or their validity contested, without reference to the presence or absence of any trust. *Rosenberg* v. *Frank,* 58 Cal. 387; *Sellers* v. *Sellers,* 35 Ala. 235; *Trotter* v. *Blocker,* 6 Port. (Ala.) 269; *Baldwin* v. *Dean,* 59 Me. 481; *Church, etc.,* v. *Robberson,* 71 Mo. 326; *Benham* v. *Hendrickson,* 32 N. J. Eq. 441; *Purvis* v. *Sherrod,* 12 Tex. 140; *Howze* v. *Howze,* 14 Id. 232; *Little* v. *Birdwell,* 21 Id. 597; *Gibbes* v. *Elliot,* 5 Rich. Eq. 327. The weight of authority, however, is with the restricted rule adopted in the principal case.

WILLS—REVOCATION—DIVORCE.—Testator while married made the will in question and deposited the same in the office of the probate judge where it remained until his death in 1905. In 1897 he and his wife separated, and in 1899 a divorce was granted to the wife. Pending the divorce proceedings, an adjustment and division of property were made between them in lieu of alimony, dower, etc. After his death application was made by the former wife for probate of the will. *Held,* that the divorce and settlement revoked the will, and that the revocation was made and completed when the decree was signed. *Wirth* v. *Wirth et al.* (1907), — Mich. —, 113 N. W. Rep. 306.

At the trial evidence was offered to show testator's intention to have this will remain in effect. This evidence was rejected, the court following the ruling in *Lansing* v. *Haynes,* 95 Mich. 16, 54 N. W. 699, 35 Am. St. Rep. 545, wherein it was said, "The question is not to be controlled by a possible presumption, but by the reasonable presumption. The possibility, therefore, that the deceased might have desired that the remainder of his property should go to his divorced wife cannot be considered in determining the question of an implied revocation in this case." The court in the principal case follows this decision and holds that the divorce and settlement operated ipso facto to revoke the will, and that no subsequent act of the testator not accompanied by the solemnities requisite for the making of a valid will could revive this instrument and make it valid. This rule has not found favor in other states. In *Baacke* v. *Baacke,* 50 Neb. 18, 69 N. W. 303, it is said, "The doctrine of revocation by implication of law is based upon a presumed alteration of intention arising from the changed condition and circumstances of the testator, or on the presumption that the will would have been different had it been executed under the altered circumstances." This case holds that divorce does not ipso facto revoke a will. To the same effect are *Jones's Estate,* 211 Pa. 364, 60 Atl. 915; *Corker* v. *Corker,* 87 Cal. 643, 25 Pac. 922; *Charlton* v. *Miller,* 27 Ohio St. 298, 22 Am. Rep. 307.